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April 11, 2019

**VIA ECF**

Honorable Nicholas G. Garaufis  
United States District Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: *United States v. Raniere, et al.*, 18-cr-204 (NGG)

Dear Judge Garaufis:

Defendant Clare Bronfman respectfully writes in response to the government's request for an adjournment of the current trial date of April 29, 2019. (ECF No. 522). Bronfman opposes delaying the start of this trial by two weeks after the government has repeatedly represented to the Court that they are prepared to go to trial on schedule.

The main argument the government cites for delaying the proposed trial date is ongoing privilege litigation and the impact this will have on the evidence the government will offer at trial. The government's belated claim that they are not prepared for trial due to ongoing privilege litigation is unavailing because, as noted in defendant Raniere's letter and as Judge Scanlon has observed on several occasions, it is the government that has been deleterious in pursuing the privilege review process.

The government has been in possession of the 112,311 documents that were seized from Bronfman's email account since the search warrants were executed on March 8, 2018 and October 15, 2018. On August 16, 2018 Bronfman provided a list of attorney names to the government. Based on the government's search of these names and law firm names, 23,924 documents were segregated as potentially privileged because they hit on search terms. Counsel for Bronfman did not receive the first production of disputed documents from the taint team until December 21, 2018—nearly nine months after the first search warrant was executed. As of February 21, 2019 the taint team had only identified 1,719 documents to Bronfman that it believed were not privileged of the 23,924 segregated documents. Out of the 1,719 disputed documents Bronfman identified 249 that she believed were privileged and briefed the issues before Judge Scanlon. Those privilege issues were fully briefed as of February 27, 2019.

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While counsel was waiting for Judge Scanlon's opinions on these issues the taint team produced another 1,425 Bronfman documents on March 12, 2019 that it believed were not privileged. Many of these documents covered disputed legal issues that had already been addressed in the parties' briefing before Judge Scanlon. Counsel for Bronfman did not endeavor to do a document by document review at that time while the briefing was pending. Judge Scanlon ruled on many of these outstanding issues on April 4, 6, and 8. In light of those opinions Defendant is now reviewing the March 12th production and estimates that she can complete that review by April 17th. Defendant has been working diligently to review the disputed documents since the taint team's first production – and in fact agreed with the vast majority of the documents that the taint team identified as not privileged after meeting and conferring – and should not now be penalized with a delayed trial date simply because the government failed to initiate this process in a timely manner when it had the ability to do so since August.

The government's request to adjourn the trial date so that it may appeal the most recent privilege decisions is also unconvincing. The heightened standard of review for Judge Scanlon's orders—contrary to law or clearly erroneous—makes it less likely that the government will prevail on appeal. In light of this fact, the government's desire to seek the district court's review of the most recent privilege opinions should be no reason to delay the start of this trial.

Given that there are still some pending motions before the Court and to allow ample time for all pretrial issues to be fully resolved, Bronfman would consent to a one-week adjournment of the trial date. We propose Juror Voir Dire to commence on April 22, 2019 and Opening Arguments to begin on May 6, 2019.

Respectfully submitted,

/s/

Kathleen E. Cassidy

cc: All counsel (via ECF)